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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,416	11/27/2001	James L. Baggot	KCX-297 (15639)	1898

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

EXAMINER	
HALPERN, MARK	

ART UNIT	PAPER NUMBER
1731	

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/995,416	BAGGOT, JAMES L.
	Examiner	Art Unit
	Mark Halpern	1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 September 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *38-76* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *38-76* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1) Acknowledgement is made of Amendment received 9/27/2004. Claims have been renumbered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2) Claims 38-48, 51-76, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kershaw (6,348,131).

Claims 38, 40, 46, 53-55, 57, 68: Kershaw discloses a multi-ply embossed paper products, for example, paper towels, tissues and napkins (Abstract) and the method of its forming by depositing a furnish of cellulosic fibers onto a foraminous surface (col. 5, line 1 to col. 6, line 42). The said paper products are having ridges (or peaks) 44 and valleys 46 in a sinusoidal pattern (col. 7, lines 1-41 and Figure 4). The paper products are embossed, which form bridging regions extending over at least two of said ridges. The embossing is in both the cross and machine direction in the form of a design, such as, a flower or a hexagon in continuous rows (col. 9, lines 26-54, and Figures 10-11). The embossing prevents nesting of layers of the paper product. Kershaw recites that when the peaks and the valleys of one ply are opposed to the peaks and valleys of an

other ply a very thick, soft two ply can be formed. In this manner the density of the two ply web can be controlled depending on application for which the product is intended (col. 11, lines 9-20). This reads on the paper product being inhibited from nesting. In regard to embossing dimensions, Kershaw discloses embossing depth of from 15 mils to about 30 mils (col. 12, lines 26-30), a width of about 1 mm and an aspect ratio (length/width) of about 1.5 (col. 9, lines 55-63). The above calculates an embossing length of about 1.5 mm, which is equal to about 59 mils. Thus the length-to-depth ratio of Kershaw is in range from about 1.97:1 to about 3.93:1. It would have been obvious, to one skilled in the art at the time the invention was made, that the claimed "length-to-depth ratio of from about 5:1 to about 40:1" be construed on 3.93:1 of Kershaw. See MPEP 2173.05 (b) regarding the interpretation of the term "about".

Claims 39, 60, 72: bridging regions are arranged in spaced apart rows as shown in Figure 11.

Claims 41, 61, 69: the bridging regions length is greater than the width (col. 9, lines 55-64, col. 11, lines 40-45).

Claims 42-45, 62-65, 73-76: Kershaw is applied as above for claim 39, 56, 69, Kershaw discloses a calculated length of an individual embossment of about 1.5 mm (0.059 in.), however Kershaw the fails to disclose the length of the bridging region as claimed. It would have been obvious, to one skilled in the art at the time the invention was made, that the length of the bridging region be varied and include the claimed length in view that the bridging region is an embossment and the design of the

embossment controls its length. The same obviousness applies to the depth of the bridging region.

Claims 47-48, 66-67: the paper product may be stacked or rolled (col. 6, lines 10-14).

Claims 51-52: the paper product basis weight is from 5 to 40 pounds per 3,000 square foot ream (col. 12, lines 32-37).

Claim 56: the embossing may be both dry and wet (col. 6, lines 29-42).

Claims 58, 70: Kershaw is applied as above for claim 57, 68, Kershaw fails to disclose the embossing roll pressure, however, it would have been obvious, to one skilled in the art at the time the invention was made, that the embossing roll pressure include the claimed range in view that Kershaw teaching that the embossing pressure is independently adjusted and varied depending on the pattern (col. 10, lines 10-19).

Claims 59, 71: the embossing roll is formed from steel (Kershaw, col. 8, lines 20-30).

3) Claims 49-50, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kershaw in view of Cook (5,048,589). Kershaw is applied as above for claim 38, Kershaw fails to disclose an through-air dried paper web. Cook discloses a process of making a towel that utilizes the use of a through-air dryer 50 (Cook, col. 4, lines 25-53). It would have been obvious, to one skilled in the art at the time the invention was made, to combine the teachings of Kershaw and Cook, because such a combination would provide a product of superior level of qualities, such as softness, in the paper product of Kershaw, as disclosed by Cook (Abstract).

Response to Amendment

4) Applicants arguments filed 9/27/2004, have been fully considered but they are not persuasive.

Applicants allege that the cited prior art, Kershaw, does not disclose bridging regions that were deliberately and particularly selected and optimized to have a certain length, a certain length-to-depth ratio to reduce nesting in the resulting stacker or wound paper product. Applicants allege that Kershaw fails to recognize that such bridging regions may be selectively employed to reduce nesting.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., bridging regions deliberately and particularly selected and optimized and bridging regions selectively employed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In the instant case, Kershaw discloses the bridging regions in structural terms. Also, Kershaw recites that when the peaks and the valleys of one ply are opposed to the peaks and valleys of an other ply a very thick, soft two ply can be formed. In this manner the density of the two ply web can be controlled depending on application for which the product is intended (col. 11, lines 9-20). This reads on the paper product of Kershaw being inhibited from nesting.

Conclusion

5) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone number is 571-272-1190. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Halpern

Mark Halpern